

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

KEVIN G. JONES, Petitioner,	:: HABEAS CORPUS
	:: 28 U.S.C. § 2241
	::
v.	::
	::
DOUG WILLIAMS; and SAMUEL S. OLENS, Respondents.	:: CIVIL ACTION NO. :: 1:13-CV-0169-RWS-RGV ::

**ORDER**

On January 23, 2013, Magistrate Judge Russell G. Vineyard entered an Order [4] granting petitioner's request to proceed in forma pauperis, denying his motion for appointment of counsel, and ordering him to amend his federal habeas corpus petition. This matter is now before the Court on petitioner's notice of appeal [7], which has been construed as a motion for a certificate of appealability [14].

Under Rule 22(b)(1) of the Federal Rules of Appellate Procedure, "the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c)." Section 2253(c)(2) of Title 28 states that a certificate of appealability shall not issue unless "the applicant has made a substantial showing of the denial of a constitutional right." A substantial showing of the denial of a constitutional right "includes showing that reasonable jurists could

debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” Slack v. McDaniel, 529 U.S. 473, 483-84 (2000) (internal quotation marks omitted).

Because reasonable jurists would not debate that petitioner’s appeal from the Magistrate Judge’s non-final Order denying his motion for appointment of counsel and directing him to amend his petition is frivolous, petitioner is **DENIED** a certificate of appealability. Any further requests by petitioner to seek a certificate of appealability should be directed to the United States Court of Appeals for the Eleventh Circuit.

**SO ORDERED**, this 1st day of April, 2013.



---

RICHARD W. STORY  
United States District Judge